IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

WP(C).No. 19796 of 2006(S)

PETITIONER:

KERALA MUSLIM JAMA-ATH COUNCIL,
REP. BY ITS GENERAL SECRETARY, STATE COMMITTEE,
A. POOKUNJU, S/O. HASSANARUKUNJU, VALIYACHENKILATH HOUSE, ARYAD SOUTH VILLAGE, AVALOOKUNNU, AMBALAPUZHA TALUK.

BY ADV. SRI.SIRAJ KAROLY
SRI.M.V.JOY

RESPONDENTS:
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1. THE STATE OF KERALA,
REP. BY THE CHIEF SECRETARY,GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

2. THE SECRETARY,
HIGHER EDUCATION DEPARTMENT,GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

3. THE DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER MR.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ORDER DATED 27.2.2006 AS G.O.(MS) NO.38/2006/H.EDN.

EXT.P2 TRUE COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER TO THE RESPONDENTS DATED 5.7.2006.

EXT.P3 TRUE COPY OF THE NOTIFICATION DATED 11.2.2000

RESPONDENTS' EXHIBITS:

ANNEXURE R2(A) TRUE COPY OF GO NO.14621/B1/06/H.EDN. DATED 4.8.2006.

/ TRUE COPY /

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.P.(C) No.19796 of 2006

Dated, this the 21st day of November, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

Kerala Muslim Jama-Ath Council has filed this petition under Article 226 of the Constitution of India challenging the Government order Ext.P1 dated 27.2.2006 providing 10% reservation in Degree and Post Graduate courses for economically backward classes among the forward communities primarily on the ground that such a reservation would be wholly illegal and violative of Articles 15(4) of the Constitution of India. During the pendency of the present writ petition the Government has passed an order dated 4.8.2006 (Annexure R2(a)) which reads as follows:

> "Inviting attention to the reference cited, I am directed to inform that the Government orders cited (1) & (2) may be kept in abeyance till further communication in the matter and suitable decisions by Government."

2. It appears from the order aforesaid that the Government

is reconsidering the matter and it is possible that in such reconsideration the order which has now been kept in abeyance may be recalled. There will be no use to continue the present petition in the circumstances as mentioned above, in as much as there is every chance of Government taking a decision favouring the contention raised by the learned counsel for the petitioner. This petition is closed with a right to the petitioner to revive it by moving an application if the Government may stick to its order challenged in the present petition.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns